

**From:** Mark Halegua  
**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

To Whom It May Concern:

After reading the settlement of the MS vs DOJ case I feel compelled to respond. The settlement is way too soft and favors Microsoft, essentially rewarding them for anti-competitive behavior.

It allows MS to control hardware vendors in the same ways as before, it allows MS to continue to hold captive users by controlling the hardware vendors, and gives them too much control over the committee which supposedly oversees their activities.

MS should have NO people on the committee they suggest or desire. All oversight committee members should in fact be selected by non-MS (perhaps all should be selected by anti-MS) computer industry experts, including the academic, legal, and open source community.

MS must make ALL API information available immediately upon creation. MS should not have even one (1) day of advantage on API calls. Dissemination of API calls should be through the internet on their own web pages (in easy to reach, not hidden or layered areas) and on public web pages, i.e., Freshmeat.com, IDG.net, and other open news web pages. Further, all industry news (i.e., Computerworld, Infoworld, PC Magazine, etc.) outlets and their associated internet outlets must also receive this information.

MS must NOT be allowed ANY time advantage regarding the API calls.

A mechanism must be set up whereby a user purchasing a system with Microsoft Windows Operating Systems may return the Operating System to either Microsoft or the hardware vendor and receive, within 60 days of said return and request of payment, payment equivalent to the payment made to MS for the OS. The EULA currently states a user may do this, but no mechanism exists and MS and the hardware vendors do NOT make refunds for the OS.

The situation exists that a computer user wants to use an Operating System (OS) not made by Microsoft, but wants a computer from a vendor where the computer only ships with a Microsoft OS. The user is forced to pay for the OS, even though the user will delete the MS OS and install another OS (i.e., Linux, Unix, FreeBSD, etc.). The End User License Agreement (EULA) states the user may request a refund for the OS if not used, but neither MS nor the hardware manufacturers abide by the EULA. Setting up a mechanism where they are forced to do so, and abide by the EULA.

MS must also be disallowed from in ANY way modifying pricing of product to different vendors. Pricing must be uniform, as this is a method of

controlling vendors. The current settlement agreement leaves too much leeway in pricing and thereby still allows MS to use pricing as a weapon against vendors who may want more control over how they install MS products on their systems.

There is so much more wrong with the settlement I wonder if the DOJ didn't make a backdoor deal with MS for items and issues the government doesn't want the public to know about, like government backdoor access to the OS for law enforcement and other items.

The settlement as currently proposed punishes MS for anti-trust violations not at all, and Microsoft's behavior over the last 10 years has harmed the industry and the public. Contrary to their claims of innovation, MS innovates not at all, they copy other company's innovations, and generally copies them poorly. They have cornered the desktop OS market (over 90 percent) and the desktop office suite market (over 80 percent), they have cornered these markets using illegal and anti-trust violation, and the settlement does little to correct these issues and nothing to punish MS.

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